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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

Case No. 2:20-cv-00994-GMN-VCF

MINA DE ORO, LLC, a Nevada limited liability
company; THE TOY CHEST, LLC a Nevada
limited liability company,
Plaintiffs,

v.

MATTHEW BRENT GOETTSCHKE, an
individual, JOBEDIAH SINCLAIR WEEKS, an
individual, JOSEPH FRANK ABEL, an
individual, SILVIU CATALIN BALACI, an
individual, BITCLUB, an unknown entity, and
DOE and ROE Corporations,
Defendants.

**EX PARTE MOTION FOR EXTENSION
OF TIME TO SERVE COMPLAINT**

Plaintiff, MINA DE ORO, LLC and THE TOY CHEST, LLC, by and through its
counsel, the Law Offices of P. Sterling Kerr, hereby motions this Honorable Court, ex parte, for
an extension of time to serve Complaint and Summons to MATTHEW BRENT GOETTSCHKE,
JOBEDIAH SINCLAIR WEEKS, JOSEPH FRANK ABEL, SILVIU CATALIN BALACI, and,
BITCLUB.

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1 This motion is made and based upon FRCP 4(e)(1) and 4(m) the papers and pleadings on
2 file herein, the Declaration by Peter R. Pratt, Esq., and the following Memorandum of Points and
3 Authorities.

4 Dated this 6th day of October 2020.

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13 *Attorneys for Plaintiffs*

14 **MEMORANDUM OF POINTS AND AUTHORITIES**

15 This action is for violations of federal securities regulation and violations of Nevada
16 securities law brought against the Defendant, MATTHEW BRENT GOETTSCHKE, JOBEDIAH
17 SINCLAIR WEEKS, JOSEPH FRANK ABEL, SILVIU CATALIN BALACI, and, BITCLUB.
18 Plaintiffs, MINA DE ORO, LLC and THE TOY CHEST, LLC, filed its Complaint on June 03,
19 2020, and, after completing its due diligence, has been unable to serve Defendants, MATTHEW
20 BRENT GOETTSCHKE, JOSEPH FRANK ABEL, SILVIU CATALIN BALACI, and, BITCLUB
21 with a copy of the Summons and Complaint.

22 Plaintiff now requests an extension of time to serve MATTHEW BRENT GOETTSCHKE,
23 JOSEPH FRANK ABEL, SILVIU CATALIN BALACI, and, BITCLUB. Plaintiffs diligently
24 searched for Defendants and has only recently located them and needs additional time to serve
25 them.

26 FRCP Rule 4(m) allows for an extension of time to effect service of a Complaint where
27 the Plaintiff has good cause why the service was not accomplished in 90 days. FRCP Rule 4(m)
28 states in pertinent part:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under [Rule 4\(f\)](#), [4\(h\)\(2\)](#), or [4\(j\)\(1\)](#), or to service of a notice under [Rule 71.1\(d\)\(3\)\(A\)](#).

The Nevada Federal District Court evaluated FRCP 4(m)'s good cause requirement in the Paliant Financial Corp. case.

Generally, "good cause" is equated with diligence. See Wright & Miller, Federal Practice and Procedure: Civil 3d § 1337. In the Ninth Circuit, a showing of good cause requires more than simple inadvertence, mistake of counsel, or ignorance of the rules. See National Union Fire Ins. Co. v. Monroe, 2011 WL 383807 (D. Nev.) (citations omitted). "At a minimum, good cause means excusable neglect. A plaintiff may also be required to show the following: (a) the party to be served personally received actual notice of the lawsuit; (b) the defendant would suffer no prejudice; and (c) the plaintiff would be severely prejudiced if his complaint were dismissed." Boudette v. Barnette, 923 F.2d 754, 756 (9th Cir. 1991) (citation omitted). PANLIANT FINANCIAL CORPORATION v. ISEE3D, INC., Dist. Court, D. Nevada 2014

Here, Plaintiff can show both the requirements for due diligence pursuant to FRCP 4 and good cause pursuant to FRCP 4(m). Plaintiff has faced difficulties in locating the Defendants and Plaintiff has been diligent in attempting to serve Defendants. Locating the Defendant was attempted on multiple occasions, using many different means and services. Plaintiffs attempted to locate Defendants at last known city and state and learned that all Defendants were incarcerated.

On June 8, 2020 Plaintiffs contacted the U.S. Marshall's Service to locate the Defendants. Plaintiffs were provided a Federal ID number but was not told where each of the Defendants were located. Plaintiffs were in contact with the attorney for Defendant Weeks and discussed an acceptance of service with him and an acceptance of service was filed on behalf of Defendant Weeks on August 4, 2020.

Having exhausted all other efforts, on September 19, 2020 Plaintiff hired a Private Investigator to uncover the locations of each of the Defendants. On October 1, 2020 Plaintiff received location information from the Private Investigator. Therefore, Plaintiffs need more time in order to effect service on the Defendants.

1 An extension of time would not harm Defendants and a failure to grant an extension of
2 time would harm Plaintiffs. Defendant Weeks was represented by counsel but withdrew instead
3 of accepting service for his client.

4 WHEREFORE, Plaintiffs respectfully request an extension of time in order to serve
5 Defendants MATTHEW BRENT GOETTSCHE, JOSEPH FRANK ABEL, SILVIU CATALIN
6 BALACI, and, BITCLUB.

7 DATED this 5th day of October 2020.

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**DECLARATION OF PETER R. PRATT ESQ., IN SUPPORT OF EX PARTE
MOTION FOR EXTENSION OF TIME TO SERVE SUMMONS AND COMPLAINT**

I, PETER R. PRATT, ESQ., declare as follows:

1. I am an attorney licensed to practice law in the State of Nevada, and I am an associate attorney for the Law Offices of P. Sterling Kerr, and counsel for Plaintiff, MINA DE ORO, LLC and THE TOY CHEST, LLC.

2. The Law Offices of P. Sterling Kerr filed a Complaint on June 30, 2020, for Case No. 2:20-cv-00994-GMN-VCF, in the United States District Court District of Nevada.

3. On August 4, 2020 Plaintiff reached out to Attorney Adam P. Schwartz, Esq. and filed an Acceptance of Service for JOBEDIAH SINCLAIR WEEKS.

4. On September 10, 2020 Attorney Adam P. Schwartz, Esq. filed a Motion to Withdraw as Attorney for JOBEDIAH SINCLAIR WEEKS.

5. As of the date of the filing of the Complaint, the Law Offices of P. Sterling Kerr retained the services of Horsemen Investigations, for the purposes of serving the other Defendants, MATTHEW BRENT GOETTSCHKE, JOSEPH FRANK ABEL, SILVIU CATALIN BALACI, and, BITCLUB (hereafter "Defendants").

6. As of June 30, 2020, through September 30, 2020, Plaintiff had, on multiple occasions, attempted to locate the Defendant and was not able to do so until October 1, 2020.

7. Plaintiffs now have sufficient information to serve the above referenced Defendants.

8. Plaintiffs would be greatly prejudiced if an extension of time is not granted.

9. Plaintiffs have diligently attempted to locate and serve the Defendants.

10. Defendants will not be harmed by this Court granting an extension of time for service.



PETER R. PRATT, ESQ.

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DOE and ROE Corporations,

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**ORDER FOR EXTENSION OF TIME TO
SERVE SUMMONS AND COMPLAINT**

Having considered the matter concerning Plaintiff's Ex Parte Request for Extension of
Time to Serve Summons and Complaint, having found good cause pursuant to FRCP (4)(m) for
an extension of time to complete service and that Plaintiff has conducted sufficient due diligence
pursuant to FRCP (4)(m) and after having reviewed the papers and pleadings on file herein:

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2 **IT IS HEREBY ORDERED** that Plaintiff is granted an extension of 90 days, exclusive
3 from the date of this Order, to find and serve the above captioned Defendants.

4 **IT IS FURTHER ORDERED** that copies of the Summons, and Complaint will be
5 emailed to Defendants at his last known email address.

6 DATED this ____ day of October 2020.

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8 UNITED STATES DISTRICT COURT JUDGE

Submitted by:

9 LAW OFFICES OF P. STERLING KERR

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